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REVIEW OF PRIORITY THEMES

World situation with regard to international traffic in minors

Report prepared by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders

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INTRODUCTION

1. The present report has been prepared in compliance with resolution 3/2 of the Commission on Crime Prevention and Criminal Justice, entitled "International traffic in minors". In that resolution, the Commission, bearing in mind that international traffic in minors was a crime that was a growing preoccupation of the world community, called on Member States to consider ways of enacting laws and regulations to combat the problem. In the same resolution, the Commission invited the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, in cooperation with the Secretary-General and other United Nations and affiliated institutes, to prepare a report on the world situation with regard to international traffic in minors, using information available to the United Nations system, for submission to the Commission at its fourth session.

2. In the present report, the traffic in children and adolescents is examined using information from, *inter alia*, Governments, the United Nations Children's Fund, the Commission on Human Rights,* the International Labour Organization (ILO), the World Health Organization (WHO), affiliated agencies and non-governmental organizations.

3. The report contains an analysis of current legislation at the international, regional and national levels in respect of each aspect of the traffic in minors. Each aspect is documented regionally in order to assess the scale of the problem and to compare the legal measures taken with the actual situation.

I. UNITED NATIONS ACTION TO DEAL WITH CRIMINAL OFFENCES INVOLVING MINORS

4. The scale and seriousness of problems connected with the traffic in minors have led to a number of measures being taken within the United Nations system to deal with them. The various instruments and other initiatives aimed at preventing such problems and protecting minors (declarations, conventions, agreements, studies, reports, research projects, and action plans and machinery) reflect the concern of the international community. Some of the most important instruments and activities on the subject are discussed below.

5. *Declaration of the Rights of the Child (General Assembly resolution 1386 (XIV))*. Principle 9 of the Declaration states:

> "The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form.
>
> "The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development."

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*Especially the report on the sale of children, submitted to the Commission on Human Rights at its forty-ninth session by Mr. Vitit Muntarbhorn, Special Rapporteur appointed in accordance with Commission resolution 1992/76 (E/CN.4/1993/67), and the report on the sale of children, child prostitution and child pornography, submitted to the Commission on Human Rights at its fiftieth session by Mr. Vitit Muntarbhorn, Special Rapporteur, in accordance with Commission resolution 1993/82 (E/CN.4/1994/84).

6. *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956.*[1] The Commission on Human Rights established in 1974 the Working Group on Contemporary Forms of Slavery of the Subcommission on Prevention of Discrimination and Protection of Minorities. The Economic and Social Council, in its resolution 1983/30, recalling that the enslavement of women and children subjected to prostitution was incompatible with the dignity and fundamental rights of the human person, requested the Centre for Human Rights of the Secretariat to prepare a study on the sale of children and to submit the study to the Subcommission. A report of the Secretary-General (E/CN.4/Sub.2/1987/28) on the sale of children, prepared pursuant to Council resolution 1983/30, was submitted to the Subcommission at its thirty-ninth session. Subsequently, a preliminary report of the Secretary-General (E/CN.4/Sub.2/1988/30) on the same subject, prepared pursuant to Subcommission resolution 1987/32, was submitted to the Subcommission at its fortieth session.

7. *Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly resolution 41/85, annex).* This Declaration, which provides for the prohibition of abduction and of any other act for illicit placement of children (article 19, states that the intercountry placement of children should in no case result in improper financial gain for those involved in it (article 20). The provisions of the Declaration establish a framework for action to combat abuse, on the basis of which Governments may review their policies and practices.

8. *Convention on the Rights of the Child (General Assembly resolution 44/25, annex).* The Convention on the Rights of the Child is the clearest and broadest embodiment of the wishes of the international community regarding childhood and adolescence. Its fifty-four articles enshrine an unprecedented range of rights. It was the first instrument to guarantee social, economic, civil and political rights in a single text. The Convention contains a number of specific provisions on the traffic in and sale of children and adolescents, aimed at combating the illicit transfer and non-return of children abroad (article 11); ensuring that the best interests of the child are the paramount consideration of adoption and that the adoption of a child is authorized only by competent authorities who determine that the adoption is permissible in view of the child's status (article 21); protecting the child from economic exploitation and from performing any work that is likely to interfere with the child's education, health or development, while providing for minimum ages for employment and regulation of the conditions of employment (article 32); protecting the child from sexual exploitation and sexual abuse, in particular preventing the exploitative use of children in prostitution and in pornographic performances (article 34); and preventing the sale of or traffic in children (article 35).

9. *Activities relating to the sale of children, child prostitution and child pornography.* The Economic and Social Council, in its decision 1990/240, noting Commission on Human Rights resolution 1990/68, requested the Chairman of the Commission to appoint, for a two-year period, a Special Rapporteur to consider matters relating to the sale of children, child prostitution and child pornography. The Commission, in its resolution 1992/74, section I, adopted the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and recommended that all States, whether or not they were parties to the Convention on the Rights of the Child, should adopt legislative and administrative measures necessary to carry out the Programme of Action at the international and national levels.

II. INTERNATIONAL TRAFFIC IN MINORS: VARIOUS ILLICIT PRACTICES

10. In the present report, traffic in minors is understood to be the transfer, for illicit purposes, of a minor or adolescent from one country to another (international traffic) or within the same country

(national or local traffic), separating the individual from his or her family group for the purpose of adoption, exploitation in employment, exploitation in prostitution, exploitation in pornography, organ removal or enlistment in military or paramilitary armed forces, for profit or for any other benefit to the perpetrator or to any person, group of persons or organization.

11. International traffic in minors is a crime that dismays the international community. It is an assault on the individual's dignity, right to security, moral and physical integrity and even, in many instances, life itself. The problem is extremely complex, with different international, regional and national facets, including: national and international legislation; various professional and social sectors, groups and individuals; practices; intermediaries; suppliers; police complicity; cost and profit; and networks.*

12. Problems of a general nature may be summarized as follows: poverty, though not in itself; structural adjustment processes; crime and corruption in national systems which, instead of enforcing the law, act in passive or active complicity with the criminals; discrimination against children and adolescents by adults on grounds of age; sex discrimination that causes greater victimization of female children; racial and social discrimination, combined with matters of class and caste and with vestiges of slavery; difficulties facing poor families unable to offer security and protection against exploitation, since their problems are compounded by poverty-driven migration and flight from armed conflict; growing transnationalization of the problem (i.e. when it is controlled in one country or region but then emerges in another); and expenditure on arms in poorer countries, which also aggravates the situation.

13. The sale of and traffic in children may take many forms. Some of those forms are described below.

14. *Adoption for commercial purposes.* The intercountry adoption of minors may offer some protection because, legally speaking, adoption implies that the child acquires equality of rights; however, the large sums of money that the intermediaries earn and the paucity of regulations governing the removal of minors for adoption tend to aggravate the problem. Some reasons for the commercialization of adoption are: contraception, abortion and the tendency of unmarried mothers to keep their children, which have drastically reduced the number of children available for adoption in developed countries; poverty, which compels parents to part with their children, in the hope of ensuring them a better future; and lack of protection for war orphans and children left in public orphanages and hospitals, where the rules governing the adoption of minors in their care are not always applied. A major problem with regard to intercountry adoptions is that procedures vary from one country to another and are nearly always inadequate. Further contributory factors are the absence of an effective central authority in the State of origin or in the receiving State, inadequate cooperation in monitoring the procedure bilaterally or internationally, and the lack of bilateral treaties and agreements for the extradition of persons who may have committed crimes in another country. Another aggravating component is the existence of independent private adoption agencies that are not registered with the appropriate administrative or judicial authorities. Such profit-making agencies sometimes even promote the sale of children, making it difficult to distinguish clearly between a legitimate adoption and trafficking. This is compounded by the absence of support from officials responsible for ensuring compliance with the law, as well as the forging of documents such as birth certificates and the alteration of children's family details.

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*See the reports submitted by the Special Rapporteur, Mr. V. Muntarbhorn, pursuant to Commission on Human Rights resolutions 1990/68 (E/CN.4/1992/55 and Add.1), 1992/76 (E/CN.4/1993/67) and 1993/82 (E/CN.4/1994/84).

15. *Exploitation of the child labour.* In developing countries, poverty is the main motivating force behind child labour. For such individuals, however, the work is far from being an important part of their training; instead, it is a source of exploitation and a violation of their rights. Such activity includes children and adolescents sold or trafficked into debt bondage, or confined to workshops or brothels, frequently by force and under conditions of exploitation. The criterion of age with reference to child labour is fundamental and is used to determine who is a child. None the less, it varies depending on the occupation and the country. The situation becomes more difficult when births are not registered or no documents are issued, making it impossible for many to prove their age. The employment of persons 13 or 14 years of age is prohibited in numerous developing countries, even though the international standard prohibits the employment of persons even 15 years old.

16. *Human organ transplantation.* There is much debate over definitions, technological progress and the limited information available regarding the sale of minors for the purpose of removing organs for transplantation. A central problem is that demand for human organs (in developed countries) exceeds the supply (from developing countries) and that the low number of such organs available for transplantation apparently generates abuse and lends itself to commercialization, particularly of living donors unrelated to the recipients. It is also alleged that poor, orphaned and abandoned minors are the main source of organs.

17. *Exploitation of children for prostitution and pornography.* Child prostitution is a problem in various regions of the world, but it occurs most often in developing countries because of its direct link with poverty, although that is not the only cause. Other factors are family situation, sex tourism, crime, corruption and ineffective enforcement of the laws intended to protect children and adolescents. As far as sex tourism is concerned, special attention must be paid to the consumers' responsibility and the extension of national jurisdiction to offences committed abroad by nationals of the country concerned. The transnational trafficking networks should also be mentioned in this context, in addition to the absence of international and bilateral agreements to facilitate the finding and return of the children and adolescents involved. In connection with sex tourism, many Governments anxious to develop conventional tourism are unwilling to punish foreign offenders. Furthermore, a State that derives profit from the sale of licences and from taxes may turn prostitution into a source of revenue. The situation has been aggravated by the appearance of acquired immunodeficiency syndrome (AIDS) and the various forms of discrimination against AIDS-infected children and adolescents engaged in prostitution.

III. LEGAL FRAMEWORK

A. International activities

18. No international convention specifically governs the traffic in and sale of children and adolescents. In order to understand the legal situation, it is necessary to refer to various international treaties or conventions. It is important to ensure the mutual compatibility of international instruments prepared by international organizations and to avoid duplication of existing conventions dealing with the abduction and return of minors. The aim is not to revise existing international civil legislation but to identify a new set of specific, significant features that, like the international traffic in children, have both civil and criminal aspects.

1. Adoption for commercial purposes

19. With regard to the adoption of children for commercial purposes, international activities directed at solving the problems posed (differences in juridical criteria from one country to another, profit-seeking intermediaries, corruption and ineffectiveness in law enforcement) should take into

account that there is a distinction between legal adoption and trafficking, and the latter is punishable. If adoption is used as a front for a contract of employment or sexual exploitation, the laws relating to the slave trade and the exploitation of children and young persons, as embodied in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, can be invoked. Then there are the profit-seeking activities of intermediaries. Any action, of whatever nature, to make minors available or to deliver minors to parents for adoption is a criminal offence if it infringes the applicable legislation or is effected in exchange for payment in money or in the form of benefits in excess of the value of the service rendered. Whether or not this is the fate of the child who is the object of the intermediary's attention, the latter's activity is intrinsically tantamount to child abuse. The Supplementary Convention is therefore partially applicable in cases of abuse in intercountry adoption; however, its non-specific nature, even though the text refers to the necessary protection of the minor's welfare, means that it does not appear to be a suitable tool to combat the traffic in and sale of minors.

20. The Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly resolution 41/85, annex) establishes a set of principles, the most important being that, in all matters relating to the placement of a child outside the care of the child's own parents, the best interests of the child should be of paramount consideration; that the first priority for a child is to be cared for by his or her own parents (article 3); that, if a child cannot be placed in a foster or an adoptive family or cannot be cared for in the country of origin, intercountry adoption may be considered as an alternative means of providing the child with a family (article 17); and that, in intercountry adoption, the placement should be made through competent authorities and should in no case result in improper financial gain for those involved in it (article 20). This Declaration is, however, not binding on all Member States.

21. The Convention on the Rights of the Child contains many basic principles concerning adoption. States parties to the Convention are obliged to take measures to combat the illicit transfer and non-return of children abroad (article 11). States parties that recognize and/or permit the system of adoption are obliged to ensure that the best interests of the child are the paramount consideration, to ensure that the adoption of a child is authorized only by competent authorities, to recognize that intercountry adoption may be considered as an alternative means of the child's care if the child cannot be placed in a foster or an adoptive family or cannot be cared for in the child's country of origin, and to take all measures to ensure that, in intercountry adoption, the placement does not result in improper financial gain for those involved in it (article 21). States parties are called upon to promote the objectives of both article 11 and article 21 by concluding bilateral or multilateral agreements. In addition, States parties are obliged to take all national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form (article 35). These principles are useless, however, if they are not applied.

22. The Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography (Commission on Human Rights resolution 1992/74, annex) recommends the following measures with reference to such abuses: warning and informing people about such grave abuses (para. 12); providing educational programmes on ways to prevent, identify and expose such abuses (para. 21); directing effective legislative and enforcement measures against the intermediaries and others who encourage and make profits from the trafficking in, sale and sexual exploitation of children (para. 26); formulating a family policy to prevent such abuses and formulating policies aimed at improving the social, economic and working conditions of girls and women, particularly the poorest (para. 32); and establishing rehabilitation and reintegration programmes to assist children who have been victims of such abuses (para. 34); exchanging information and reporting to the International Criminal Police Organization (ICPO/Interpol) to enable a special data bank to be set up on suspects involved in cross-border trafficking, sale or sexual exploitation of children (para. 35). The Programme of Action

also states that intercountry adoptions should only take place through competent, professional and authorized agencies, in both the country of origin and the receiving country of the children (para. 42); the procedures for childbirth registration, renunciation of parental rights and consent to adoption by a parent should be strictly regulated by law (para. 43); and governmental and non-governmental bodies should promote and develop alternatives to intercountry adoptions, such as support services for parents, foster-family care and domestic adoptions, and special efforts should be made to ensure that parents are not incited to part with their children for socio-economic reasons (para. 44).

23. The Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, lays down a fairly detailed set of factors to be considered before an intercountry adoption is effected, involving the following requirements: assessment of the suitability of the prospective adoptive parents; appointment of a central authority in each State party to the Convention for purposes of coordination with other States parties; accreditation of intermediary organizations providing the necessary guarantees that they are non-profit-making; and mutual recognition of foreign adoptions (E/CN.4/1994/84, para. 38).

24. The 1993 Hague Convention proposes the supervision of operations conducted by intermediaries, particularly those of private adoption agencies, ensuring that they are accredited by the state authorities and that the latter monitor the activities of such agencies by the appointment of a central authority in each country to oversee the procedure (E/CN.4/1994/84, para. 38). The Hague Convention on the Civil Aspects of International Child Abduction of 1980[2] assists in tracing abducted children and facilitating their return. The Convention empowers the police to intervene in child abduction cases, even without prior judicial ruling (E/CN.4/1994/84, para. 41).

25. The international instruments on adoption are tending to concentrate more on the best interests of the child, particularly children who are most vulnerable on grounds of their socio-economic situation. The aim is to find solutions at the national level. In the States of origin and in the receiving States, the focus should be on regulation and standardization, limiting private adoptions and increasing adoptions through organizations capable of undertaking the relevant pre- and post-adoption operations and, above all, following the procedures established by the Convention on the Rights of the Child and the 1993 Hague Convention.

2. Exploitation of child labour

26. Regarding child labour, three main areas of activity can be distinguished:

(a) The policy of ILO is to abolish child labour. On 26 June 1973, the ILO General Conference adopted the Convention concerning Minimum Age for Admission to Employment (Convention No. 138). Convention No. 138 calls on each member State to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work not below the age set for the end of compulsory education or, in any case, not less than 15 years (although it may be as low as 14 years in developed countries), to a level consistent with the fullest physical and mental development of young persons (article 1). It specifies that the minimum age for admission to employment or work should not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years (article 2). It fixes at 18 years the minimum age for admission to employment or work that is likely to jeopardize the health, safety or morals of young people (article 3);

(b) Under the Convention on the Rights of the Child, States parties to the Convention are obliged to provide for minimum ages for admission to employment, to provide for regulation of the conditions of employment, to protect the child from performing work that is likely to be harmful to the child's

health and to provide for appropriate penalties to ensure the enforcement of those provisions (article 32). The Convention also calls on States parties to recognize the right of the child to leisure, to engage in recreational activities and to participate in cultural life (article 31);

(c) The Programme of Action for the Elimination of the Exploitation of Child Labour (Commission on Human Rights resolution 1993/79, annex) suggests measures in the following areas: information; education and vocational training; social action; development aid; labour standards and their application; adoption by States of appropriate programmes and policies; and support by international organizations. There is still wide divergence as to age limits and the sectors and areas of application of legislation on child labour. There are also great differences in the assessment of the danger or harmful nature of a given form of work. Some quarters stress the physical strength required and others refer to occupations that may imply moral endangerment. The current extent and characteristics of child labour demonstrate the essential need to reappraise the use of legislation as the exclusive political means of handling the problem. One of the major difficulties lies in the increasing concealment of child labour under the effect of the abolitionist principle, generating conditions that encourage the spread of clandestine labour in the informal sector. Thus, the legal prohibition of child labour not only has failed to eradicate it, but has also in practice hindered the detection of risk situations and the application of protective measures.

3. Human organ transplantation

27. To date there is no specific international instrument concerning human organ transplantation. However, from the Convention on the Rights of the Child, which enshrines the child's right to life and to protection from maltreatment and exploitation, it can be inferred that the sale of children for organ transplantation is illegal. In 1991, WHO issued a set of Guiding Principles on Human Organ Transplantation,[3] making a distinction between removing organs and tissues from the bodies of deceased and living persons. The Guiding Principles state the conditions required for consent to the removal of organs from deceased persons. They state that no organ should be removed from the body of a living minor for the purpose of transplantation; national law may permit exceptions in the case of regenerative tissues (principle 4). The human body and its parts cannot be the subject of commercial transactions. Consequently, giving or receiving payment (including any other compensation or reward) for organs should be prohibited (principle 5). The Guiding Principles also state that it should be prohibited for persons or facilities involved in organ transplantation procedures to receive any payment that exceeds a justifiable fee for the services rendered (principle 8).

4. Recruitment age for armed forces

28. Regarding the recruitment of children, the following provisions are of importance:

(a) Under the Convention on the Rights of the Child, States parties are obliged to take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities and to refrain from recruiting any person who has not attained the age of 15 years into their armed forces; in recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States parties are obliged to endeavour to give priority to those who are oldest (article 38). In the view of the Special Rapporteur, these provisions have not had the desired effect in practice;

(b) Under article 77 of Additional Protocol I[4] to the Geneva Conventions of 1949,[5] the parties to the conflict should take all possible measures to ensure that children who have not attained the age of 15 years do not take a direct part in hostilities and, in particular, should refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of 15 years but

who have not attained the age of 18 years, the parties to the conflict should endeavour to give priority to those who are oldest. Children under the age of 15 years should not be recruited into armed forces or groups and should not be permitted to take part in hostilities. Nevertheless, some States that have ratified Protocol I continue to recruit children into their armed forces.

5. *Child prostitution*

29. There are five main activities regarding child prostitution:

(a) The Convention on the Rights of the Child refers to the need to protect the child from sexual exploitation and sexual abuse, taking measures to prevent the exploitative use of children in prostitution (article 34). It mentions the need to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child (article 19);

(b) The Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography calls for strategies that emphasize information; education; effective administrative and legal and law enforcement measures; social measures and development assistance; rehabilitation and reintegration; and international coordination to deal with the problem of child prostitution. The specific concerns include combating incest and sexual abuse within the family or by employers; adopting legislative and other measures to combat sex tourism, in the country of origin and in the receiving country of the client; penalizing on the same level as procurement the marketing of tourism through the enticement of sex with children; adopting practical measures to combat sex tourism; adoption of measures necessary to prevent military personnel and public servants, whether stationed on foreign territory or not, from contributing to child prostitution; and adopting legislation to prevent new forms of technology from being used to promote child prostitution (paras. 46-50);

(c) In its draft programme of action for prevention of traffic in persons and the exploitation of the prostitution of others, the Working Group on Contemporary Forms of Slavery does not refer specifically to children and adolescents (E/CN.4/Sub.2/1991/41 and Corr.1, annex I), but it does propose various strategies that emphasize information; social measures and development assistance; legal measures and law enforcement; rehabilitation and reintegration; and international coordination. These programmes of action should be implemented by States with regular supervision and reporting to the Commission on Human Rights and other international bodies, such as the Committee on the Rights of the Child;

(d) In 1993, the World Tourist Organization drew the attention of the Working Group on Contemporary Forms of Slavery to the Tourism Bill of Rights and Tourist Code, adopted in 1985, which established standards of conduct for States, tourism professionals and tourists on the issue of sexual exploitation. In that document, States were reminded of the need to prevent the use of tourism to exploit others for prostitution purposes, tourism professionals and suppliers of tourism and travel services were asked to refrain from encouraging the use of tourism for all forms of exploitation of others, and tourists were requested to refrain from exploiting others for prostitution purposes (E/CN.4/Sub.2/1993/31, paras. 80-81);

(e) The ICPO/Interpol Standing Working Party on Offences against Minors has forwarded to national bureaux a Programme of Action for the Prevention of the Sale of Children and has requested member States to appoint liaison officers on offences against minors. The Standing Working Party has examined, *inter alia*, law enforcement and legislation relating to international cooperation, and general measures on victim assistance, missing children, free telephone help-lines, prevention models, training,

and research and statistics. In the field of cooperation, it has proposed the appointment of contact agents in member States; the preparation of a report on child pornography, including a study of national legislation; the compilation of reference material on computer pornography, contacts to counter sex tourism; the collection of statistics on offences against children; and the training of police on human rights (E/CN.4/1994/84, paras. 139-142).

6. Child pornography

30. On child pornography, the Convention on the Rights of the Child obliges States parties to the Convention to take all measures to prevent the exploitative use of children in pornographic performances and materials (article 34).

31. The Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography identifies the following measures against child pornography: placing a higher priority on the investigation of child pornography in order to prevent and eliminate any exploitation of children; enactment of laws making it a crime to produce, distribute or possess pornographic material involving children; introducing new laws and penalties against broadcasting or publishing through the mass media material threatening the mental or moral integrity of children or containing depraved or pornographic passages; measures to prevent new technology from being used to produce pornographic material, including video films and pornographic computer games; enacting legislation and measures of control to protect children from exposure to adult pornographic material, particularly through new forms of technology; encouraging the mass media and journalists to adopt professional codes governing the publication of material, including advertising, containing pornographic elements and reminding them of their responsibility in influencing public attitudes (paras. 52-56). The trend is therefore towards penalizing the possession of pornographic material involving children and combating its use in conjunction with new forms of technology.

32. ILO and ICPO/Interpol are following developments in the use of children and adolescents in pornography and the trend towards "extraterritoriality", whereby persons can be incriminated for offences committed in other countries, in an effort to protect children from victimization.

B. Regional activities

33. Regional activities are extremely important since they foster the exchange of information, yield a more thorough knowledge of the specific problems in each region and facilitate the coordination of efforts to deal with those problems. Non-governmental organizations support the guarantees laid down in United Nations texts, even though these guarantees have not yet been introduced into the legislation or the social practices of the Governments concerned.

1. Adoption for commercial purposes

34. At its thirty-ninth regular session, the Parliamentary Assembly of the Council of Europe, on the basis of its recommendation 1065 (1987)[6] on the traffic in children and other forms of child exploitation (international trafficking for purposes such as prostitution, pornography, slavery, illegal adoption etc.), referring also to its recommendation 1044 (1986) to the effect that the Committee of Ministers of the Council of Europe should invite the Governments of member States to cooperate in a study on a centralized action against trafficking in children, considered it essential that member States should urgently take, *inter alia*, the following measures: sign and ratify the international conventions; seek guarantees for and improve all practices affecting international adoptions, among other matters; promote and encourage a broad public information campaign regarding sale of and trafficking in children and the exploitation of child labour; inform educators and young persons about the rights of the child and

include in the curricula of schools at all levels courses on education in human rights; promote legal research programmes, at the national and international levels, to analyse the forms, conditions and structure of the traffic in children; decree strict laws and regulations to combat child pornography and harmonize the relevant legislation of member States; promote and adopt a policy to meet the needs of street children and abandoned children; condemn any commercial or industrial policy based on the exploitation of child labour, and ensure that the activities of national and international development agencies are so conducted as to have a positive effect on the rights and interests of children throughout the world; take measures guaranteeing that working children, in conformity with article 7 of the European Social Charter (A/33/417, annex III), enjoy decent living and working conditions; and enhance public supervision of such children. Finally, it recommended that the Committee of Ministers should instruct the European Committee on Crime Problems of the Council of Europe to study the traffic in children and other forms of child exploitation as a priority matter.

35. At the meeting of experts on trafficking in children, preparatory to the fifth Inter-American Specialized Conference on Private International Law, held at Oaxtepec, Morelos, Mexico, from 13 to 16 October 1993, attention was drawn to the absence of an international instrument specifically covering the traffic in and sale of children.[7] At that meeting, agreement was reached on minimum rules of international law aimed at prohibiting the traffic in children and inviting Governments to prevent and punish such traffic within their borders, to look for measures of a national, bilateral and multilateral nature directed towards the prevention of the abduction of, sale of or trafficking in children and to point out gaps in the legislation. The meeting focused on the need to seek solutions in the field of criminal law, in addition to the solutions already put forward in civil law, mainly because the latter were not giving the anticipated results (the difficulty in criminal terms lies in describing or defining legally the conduct that it is desired to foresee, prevent and, as appropriate, punish, since in the majority of cases not just one offence but several offences have been committed, and the median or instrumental offence committed in one country is different from the final offence committed in another. Sometimes there may be no offence at all at the beginning, perfectly legal juridical forms being used, something that imposes an obligation to strengthen preventive measures and international collaboration). With regard to the criminal aspects, the following measures were put forward: the need to define general and basic principles of an international nature, leaving it to the legislation of each country to work out the details of the subject (the term "traffic" was chosen over the term "trade" on the grounds that international concern should concentrate on the movements of a minor from one country to another for illicit purposes and for profit); the obligation on the part of States to cooperate in obtaining evidence, pursuing inquiries and making legal proceedings available; the use of the principle of ubiquity as a device intended to prevent in any way the impunity of the offenders and their accomplices, since there are occasions when the offence is initiated in one State and completed in another; and the convenience of adopting a system of central authority, since this would facilitate and accelerate proceedings. With respect to the civil aspects, the following was discussed: civil liability of agents engaged in trafficking; control of the exit of minors; and annulment of international adoptions or other relationships that have been formed on the basis of the illicit traffic in minors. Proceedings can be initiated by the father, the mother, the guardians or public bodies, in view of the grave nature of the offence. Civil law should also cover the procedure for return, annulment of adoption, redress for damage and harm caused by trafficking, compensation for the expenses and costs accruing from such trafficking, and empowerment of the central authorities to control the exit and entry of minors. Provision should be made for the complete annulment of an adoption or any other form of guardianship of a minor associated with acts of trafficking or derived therefrom. All the foregoing was incorporated in the Inter-American Convention on International Trafficking in Minors, adopted and opened for signature by the fifth Inter-American Specialized Conference on Private International Law, held at Mexico City from 14 to 19 March 1994.

36. Following a seminar held in the Netherlands in 1993, the European agency EURADOP was established, bringing together the official adoption agencies of nine countries with a view to drafting a code of ethics for physicians regarding matters of intercountry adoption.[8]

37. The most important meetings and activities on the subject promoted by the Defense for Children International Movement have been:

(a) The meeting of experts of non-governmental organizations on the implementation of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally, held at Vienna in 1987. The Defense for Children International Movement suggested at that time that, for purposes of implementation of article 19 of the Declaration, two types of action would be required, which were different but complementary. The first type of action involved the dissemination of information through public awareness campaigns and the presentation to certain Governments of the results of research. That work was to be supplemented by bilateral research, in the sense that information on the trafficking in and sale of children should emanate not only from the child "exporting" countries but also from the "importing" countries, the countries to which the children were taken. The second type of action, that of direct intervention, was to ensure that the law was systematically applied;

(b) At the Regional Expert Meeting on Protecting Children's Rights in Intercountry Adoptions and Preventing Trafficking and Sale of Children, held at Manila in 1992, the international proposals were strengthened. It was agreed that there was a need for international measures aimed at the following:[9] emphasizing the subsidiarity of intercountry adoptions, local requirements being investigated first; alleviating poverty; reducing foreign debt; proposing a code of conduct for international adoption agencies; applying stricter standards on accreditation of adoption agencies in the States of origin and the receiving States; verifying financing systems; and improving international control.

2. Exploitation of child labour

38. ILO helped to organize the Asian Regional Seminar on Children in Bondage, held at Islamabad in November 1992. Within the framework of its Interdepartmental Project on the Elimination of Child Labour, a Programme of Action against Child Bondage was drafted and adopted. The Programme of Action targeted the following groups of children: children pledged as partial payment of a debt; children recruited for work on plantations; children lured away from their families, kidnapped or confined in sweatshops or brothels; children compelled to work in conditions of exploitation which have no resemblance to a free employment relationship, as is sometimes the case with children working unseen in domestic service. The Programme of Action advocated measures in the following areas: legislation; enforcement; and education, training and rehabilitation.[10]

39. The Defense for Children International Movement and the International Society for the Prevention of Child Abuse and Neglect have jointly organized an international action group on child labour, with a view to developing an international strategy for the elimination of child labour based on the experience of national and local groups or of persons active on behalf of child labourers. The aim is to cover Africa, Asia, Latin America and the Caribbean, the Middle East and North America;[11]

40. The absence of effective control of national legislations on the subject can be attributed to a complex set of causes. Among these, mention should be made of serious operational faults in labour inspection systems, the obscurity shrouding the informal sector, or defects of infrastructure, coverage and in particular the quality of schoolteaching. Certain irregular effects produced by the adoption of specific laws have also been frequently observed.

3. Human organ transplantation

41. In 1993, the European Parliament passed a resolution prohibiting trade in transplant organs, noting that there was evidence that foetuses, children and adults in some developing countries had been mutilated and others murdered with the aim of obtaining transplant organs for export to rich countries. In that resolution, the European Parliament (E/CN.4/1994/84, para. 103):

(a) Called for measures to be taken to prohibit commercial trade in organs;

(b) Called for a ban on imports, use and/or transplant of organs and tissues whose origins and state of health were not known with certainty;

(c) Called for the condemning of the laxness of certain countries that allowed such trafficking to develop;

(d) Called for action to be taken to put a stop to the mutilation and murder of foetuses, children and adults in certain developing countries for the purpose of providing transplant organs;

(e) Called for a code of conduct to be drawn up, comprising:

(i) Conditions governing the origin of transplant organs;

(ii) The principle that organs should be donated free of charge and that donors should remain anonymous to the recipient;

(iii) The principle that no supplementary payment specific to the medical act of transplanting organs should be made;

(iv) A system of:

a. Approval of hospital departments responsible for transplants;

b. Separation of intensive care units from surgical units responsible for transplants;

(v) A ban on the removal of organs of minors, from adults who are legally incapable, and from anencephalic infants;

(vi) The establishment of medical criteria for placing patients on waiting lists.

42. The measures proposed for European cooperation in the European Parliament resolution included the following (E/CN.4/1994/84, para. 104):

(a) Computerization of data on available organs, patients awaiting transplants and parameters for ensuring histocompatibility;

(b) Stepping up of European cooperation among non-profit-making associations;

(c) Settlement of the costs arising from the removal of organs, proper treatment and, where applicable, transport to be based on the principle that the cost is payable by the recipients of the transplants or by their health and social security schemes;

(d) Maximum use of live donors belonging to the family for kidney transplants;

(e) Continuation and intensification of scientific research into artificial organs and xenografts;

(f) Cooperation between national health services responsible for organ transplants, with emphasis on the importance of establishing specialized services in those countries which do not yet have them;

(g) Launching of public awareness campaigns, based upon the principle of generosity and solidarity, with due regard for the individual person and individual feelings;

(h) Efficient hospital records.

4. Child prostitution

43. In 1991, the Council of Europe adopted a recommendation on sexual exploitation, pornography and prostitution of and trafficking in children and young adults, underlining the importance of arousing public sentiment against sexual exploitation, information campaigns, information collection, interaction with travel agencies, accession to the relevant international instruments, the expansion of national jurisdiction to cover misdeeds committed by a country's nationals abroad, and the exchange of information and more research on paedophilia and the relationship between the sex industry and organized crime.[12]

44. A meeting organized by the United Nations in the Asian and Pacific region on the promotion of community awareness for the prevention of prostitution identified the need to break the silence on the issue with the aim of preventing stigmatization, to promote economic measures, assistance for prostitutes, research on AIDS and accession to relevant international instruments (see ST/ESCAP/1078). The meeting also called for decriminalization of prostitution in general, reserving punishment for exploiters of prostitutes (E/CN.4/1993/67, para. 159).

45. Non-governmental organizations such as End Child Prostitution in Asian Tourism have coordinated a campaign to prevent child prostitution, in connection with tourism in Asia.[13]

46. An African regional conference on culture, sex and money: its effects on women and children, held at Abidjan in 1991, was sponsored by the International Abolitionist Federation, the International Catholic Child Bureau and Environmental Development in the Third World. The focus of the conference was prostitution of minors in relation to human rights. States that had ratified the Convention on the Rights of the Child were urged to fulfil their obligations under that Convention and to encourage States that had not acceded to the Convention to do so.

47. A meeting on sexual exploitation and trafficking in women and children in Latin America and the Caribbean, sponsored by the Coalition against the Trafficking in Women and the Latin American Women's Centre for Interdisciplinary Studies (CEFLEIN),[14] was held at Caracas in March 1994. The meeting gave an opportunity for making an up-to-date assessment of the situation and the progress made by groups at the local, regional and international levels. In addition, agreements, resolutions and surveys were instituted and strategies were defined for the short, medium and long term, directed against prostitution and the traffic in women and children.

C. National activities

48. Information on national activities is sparse. In spite of the existence of legislation, including legislation in harmony with the Convention on the Rights of the Child and other international

instruments, its implementation is at times imperfect. On many occasions abuse and exploitation of children or adolescents are a result of such deficiencies and of the economic interests that centre thereon (the seemingly easy option of reforming the law will never suffice unless the issues of high standards of law enforcement and effective measures to counter criminality and corruption are also addressed, together with poverty). National measures do not take account of action carried out by non-governmental organizations, which undoubtedly play an important role.

1. Adoption for commercial purposes

49. Activities at the national level can be categorized as follows: measures to encourage national adoptions, to prevent commercialization, and measures to be taken by the receiving countries. In many respects countries have adopted much stricter measures to prevent commercialization and promote national adoptions Some examples are provided below.

50. The Special Rapporteur has indicated that in Central and South America, many countries have taken measures to fill the legislative loopholes concerning intercountry adoptions. He then goes on to say, however, that in spite of the legislative progress made in recent years, the necessary action to harmonize the jurisdictional differences has not been taken in various Central and South American countries (E/CN.4/1993/67, paras. 43 and 63).

51. Chile revised its legislation on adoption so as to bring it into line with the provisions of the Convention on the Rights of the Child.

52. In Ecuador, new regulations on adoptions, which came into force on 12 January 1990 by the promulgation of Executive Decree 1177, instituted a number of conditions and organizations relating to adoptions.

53. According to information supplied by the Ministry of Justice of Peru for the purposes of the present report, Supreme Decree No. 038-93-Jus (1993) established the Permanent Commission for the Rights of the Child and the Woman and the Technical Secretariat for Adoptions (for the purpose of regulating the adoption process) and approved a new minors' code.

54. In Austria there are no specific provisions relating to the sale of children. The general provisions of section 195 of the Austrian Penal Code relating to the abduction of minors is applicable in such cases. The Federal Youth Welfare Act of 1989 obliges the Austrian provinces to enact laws regulating the adoption procedure (E/CN.4/Sub.2/1993/31, paras. 2-3).

55. In Bulgaria the rules governing intercountry adoption were promulgated on 2 August 1992.

56. In Japan, punitive provisions are in force to combat the sale of children through kidnapping or abduction for profit and/or for transportation to foreign countries (E/CN.4/Sub.2/1993/31, para. 41).

57. Article IV of Act No. 7610 of the Philippines prescribes severe penalties for trafficking in children.

58. Viet Nam promulgated in 1991 the law on protection, care and education of children. Article 7 of that law provides that the delivery and receipt of children in adoption cases are to be effected in conformity therewith, care being taken to ensure that the children are adequately brought up, cared for and educated. In all cases the exit of a child from the country or its return thereto must be effected in accordance with the law.

2. Exploitation of child labour

59. Although legislation on child labour exists in all countries, its application is not always what it should be. There are cases of exploitation in both developing and developed countries, although the extent varies from region to region. For example, the number of cases is high in Asia and South America.

60. In Germany, the Protection of Minors in Employment Act has classified as a punishable offence the assignment of children to work or other services comparable to that done by employees or home workers (E/CN.4/Sub.2/1993/31, para. 31).

61. In order to protect children, Peru has passed legislation intended to prevent and punish the exploitation of child labour in accordance with the conditions laid down in the Convention on the Rights of the Child, and the restrictions imposed by the children's and adolescent's code.

3. Human organ transplantation

62. Many countries have adopted legislation regulating the transplantation of human organs. This legislation is to be coupled with codes of ethical conduct for medical practitioners, review of the use of foetuses, *in vitro* fertilization and surrogacy, to prevent commercial transactions and abuse (E/CN.4/1993/67, para. 102).

63. In recent years, many countries and areas, such as India, the Philippines and the Russian Federation have approved legislative measures to regulate organ transplantation and to prohibit the use of children's organs. Other countries and areas, such as Bulgaria, Hong Kong, Israel and Poland, are preparing legislation on the subject (E/CN.4/1994/84, para. 106).

4. Child prostitution

64. A basic problem in combating child and juvenile prostitution is ensuring observance of the law. Although various forms of legislation exist on the basis of which recourse may be sought to protect children and adolescents, the application of such legislation is not effective.

65. Although the European Commission on Human Rights has up to the present time handled cases relating to the protection of the child, it has never been requested to deal with cases involving the sale of children, child prostitution or child pornography. In their jurisprudence concerning criminal prosecution of homosexual acts, however, the organs of the European Convention on Human Rights have had regard to the protection of children and minors and have therefore admitted that national legislation lays down limits for the age of consent in this field (E/CN.4/1994/WG.14/2, paras. 63-64).

66. In Germany, children and juveniles are protected from sexual abuse and prostitution by, in particular, the following provisions of the Penal Code: section 174 (sexual abuse of wards); section 175 (homosexual acts); section 176 (sexual abuse of children); section 180 (encouragement of sexual acts by minors); section 180 (a) (2) to (5) (encouragement of prostitution); and section 182 (seduction). Children and juveniles are also protected by the general provisions of section 177, section 178 (sexual coercion), section 181 (trade in humans) and section 181 (a) (procuring). It is proposed to replace sections 175 and 182 of the Penal Code with a standard provision to protect minors under 16 from sexual abuse (E/CN.4/Sub.2/1993/31, para. 31).

67. In Japan there are punitive provisions relating to the prevention of obscene acts involving children and child prostitution (E/CN.4/Sub.2/1993/31, para. 43).

68. Peru has adopted legislation to prevent and punish sexual exploitation in accordance with the provisions of the Convention on the Rights of the Child and the restrictions imposed by the children's and adolescent's code.

69. The Philippines has promulgated Republic Act No. 7610, entitled "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and for Other Purposes", which defines and penalizes child abuse, child exploitation, child prostitution, trafficking and pornography, as well as other forms of child abuse (articles 1-3), (E/CN.4/1994/WG.14/2, para. 24).

IV. CONCLUSIONS

70. The international traffic in minors is a serious criminal offence that is conducted basically by criminal organizations with international connections. It must be dealt with by measures that include criminal prosecution. Only a concerted effort on the part of the international community will be effective in combating such offences. In the present report, the information is based on documents available within the United Nations system, a fact that has a substantial influence on its scope and content. Nevertheless, some examples are offered in connection with each aspect of the problem and its status in each region. At the same time, particular significance attaches to the fact that according to reports originating from United Nations entities, and ILO in particular, 200 million children throughout the world are exploited at work.[15] The protection of children against abuse and exploitation depends on the existence of legislation and effective policies for its enforcement at the international and local levels, and on criminal legislation being applied with greater energy.

71. As regards action by the United Nations, in spite of the fact that measures were initiated over 25 years ago, male and female children and young persons are still victims of many forms of abuse against which various declarations and agreements were supposed to protect them. Perhaps the most important of those instruments is the Convention on the Rights of the Child, which has become the document upon which other international, regional and national measures are based.

72. As for the problem of sale of and trafficking in minors and adolescents, no systematic studies have been conducted at the international level, except for the reports by the Special Rapporteur. Some progress has been made in this area, although the machinery for the trafficking in and sale of children is to a large extent still unknown and insufficiently controlled. Official circles are beginning to manifest a desire to receive information and a willingness to impart it. Information on the problem originates to a large extent from non-governmental sources such as the Defense for Children International Movement, End Child Prostitution in Asian Tourism, the International Committee for the Dignity of the Child and the International Catholic Child Bureau.

73. Trafficking in children and adolescents occurs, essentially, because there are intermediaries who derive considerable financial profit from such criminal activity; that in turn is possible because of the presence of a demand supported by sufficient economic strength to permit the existence of a market. The lucrative activities of the intermediaries should be classified as criminal and penalties appropriate to such offences should be imposed.

74. There is no international convention specifically covering the traffic in and sale of children and adolescents. Regional measures are important since they permit the exchange of information, a more thorough knowledge of the specific problems of regions and the coordination of efforts to deal with the problems involved. International non-governmental organizations support the guarantees provided in the United Nations instruments. When we compare national measures with the situation and magnitude

of the problems, we note that in spite of the existence of legislation, including legislation in harmony with the Convention on the Rights of the Child and other international agreements, the legislation in many cases is not applied.

75. Adoption for commercial purposes is one subject that has been more thoroughly explored than the others. The trend in international legal instruments concerned has been towards a more centralized approach, emphasizing the overriding interests of the child, particularly with regard to children who are most vulnerable as a result of their social and economic situation. The aim is to seek solutions at the national level. In both the States of origin and the receiving States the international trend is towards regulation and control, limitation of private adoptions and an increase in those effected through the intermediary of organizations qualified to carry out the prescribed pre- and post-adoption procedures.

76. With regard to child and juvenile labour, the principal regulatory source is the Convention on the Rights of the Child and ILO recommendations. However, there is a gap between prescription and practice. The legal documents lay down criteria based on laws governing education and governing labour, as a result of which age is one of the basic criteria for defining child labour and thus for protecting children. Age as a function of branches of activity and fields of application, however, continues to exhibit strong disparities, since it varies from one State to another, even in States that have ratified Convention No. 138. The extent and present characteristics of child labour have pointed to the urgent need to re-evaluate the use of legislation as the exclusive political means of handling the problem, since this problem is characterized by an absence of real effectiveness on the part of the relevant national legislations. One of the most notorious problems is the existence of conditions favourable to an increase in clandestine labour in the informal sector. Thus, legal prohibition of child labour has not only failed to eradicate it but, in practice, has prevented the detection of risk situations and the application of protective measures.

77. The problems of human organ transplantation and other forms of sale, in spite of their significance, have become objects of attention only relatively recently, which means that the international community has still not worked out directives or prepared texts containing precise legal provisions in this connection.

78. Child and juvenile prostitution and the use of male and female children and adolescents in pornography are problems that have received great attention. However, due to their magnitude and complexity, they are extremely difficult to combat.

79. Finally, the main consequences of exploitation of child labour, the sale of children and child prostitution are lack of protection for and violation of their economic, social and cultural rights; treatment as merchandise and the object of commercial transactions, with no consideration for the best interests of the child or adolescent; loss of identity; age discrimination, defencelessness, subjection and vulnerability; racial and social discrimination; separation from their original families, false assertions of abandonment, ignorance of their nationality; in cases of international adoption, no follow-up of their status; labour exploitation of the child and adolescent; impossibility of access to study, recreation and physical and mental development; labour hazards; sex discrimination leading to the victimization of female children; contraction of sexually transmitted diseases, mainly AIDS, and the various forms of discrimination to which victims of this disease, which mainly affects young girls, are subjected; death through removal of organs or the performance of dangerous jobs (as in mines or in camel races); forcible recruitment and combat service with the physical and mental trauma caused by participation in armed conflict; the use of drugs in association with prostitution; indirect penalization of prostitution and abuses by police forces; sexual exploitation with consequent physical and psychological trauma; and the impossibility of returning to their home country.

80. On the basis of the above-mentioned conclusions, the Commission on Crime Prevention and Criminal Justice may wish:

(a) To strengthen its role in combating the international traffic in minors, by deepening and bringing up to date research on the features of such offences and the measures that could be adopted to counter them, including measures involving international cooperation;

(b) To evaluate the scope and applicability of criminal law and to initiate a pro-child and anti-crime network in association with ICPO/Interpol, the national police, the immigration authorities responsible for applying the law and local community groups, with a view to increasing awareness of child abuse and exploitation; and to collaborate with worldwide bodies concerned with military matters to prevent children from being the object of abuse in situations of armed conflict;

(c) To study ways and means of preventing and punishing the international traffic in minors, considering that liaison between the areas of jurisdiction of the authorities in the various countries concerned is a key factor;

(d) To show how criminal law should be used to eliminate discriminatory practices, and also to encourage the community in the long term to promote changes in behaviour. Publicity campaigns should be mounted and their aims should include total knowledge of the phenomenon represented by the sale of and trafficking in children; obtaining information; calling attention to the problem; and involving prominent political and social personalities;

(e) To analyse the aspects that could form the basis of specific legislation to be adopted at the national level against the sale of and trafficking in children, exploitation of children at work, sexual exploitation of children and trafficking in organs;

(f) To promote specific measures to assist children who are victims of abuse and exploitation, in fields such as health services, particularly on behalf of children infected with the human immunodeficiency virus and AIDS, giving priority to rehabilitation based on the family and the community;

(g) To urge wider ratification of and accession to the 1993 Hague Convention, in both the States of origin and the receiving States, and likewise the provision of protection against unscrupulous adoption agencies. Children should have the right to be informed of their origins. In each country there should exist a register and a central authority coordinating local and intercountry adoptions;

(h) To urge strongly more strict compliance with legislation governing child labour, so as to eliminate any kind of work under conditions of slavery, giving particular attention to the difficult situation of female children;

(i) To propose greater control of labour involving children who are illegal emigrants or are without documents, taking into account the relevant international regulations concerning the rights of migrant workers;

(j) To suggest that all the bodies involved should give greater attention to the international traffic in children and its connection with criminal networks. In order to apprehend offenders, bilateral cooperation and other forms of cross-border cooperation should be instituted, with the assistance of ICPO/Interpol;

(k) To proceed in such a way that in the drafting of the relevant legislation, account is taken of the impact of new technologies and their use in preparing and carrying out pornographic activities involving children.

Notes

[1]United Nations, *Treaty Series*, vol. 266, No. 3822.

[2]Ibid., vol. 1343, No. 22514.

[3]World Health Organization, *Human Organ Transplantation* (Geneva, World Health Organization, 1992).

[4]United Nations, *Treaty Series*, vol. 1125, No. 17512.

[5]Ibid., vol. 75, Nos. 970-973.

[6]"Protection of the rights of children in intercountry adoptions; Selection of documents on the problem of the sale of and traffic in children", Document No. 22: Council of Europe, Against all forms of exploitation (Defense for Children International, June 1989), pp. 48-49.

[7]Instituto Interamericano del Niño and Organization of American States, *Reunión de Expertos sobre Trafico de Niños: Preparatoria de la Quinta Conferencia Especializada Interamericana sobre Derecho Internacional Privado, Oaxtepec, Morelos, México, 13 al 16 octubre 1993: Informe final* (Meeting of experts on trafficking in children: preparatory meeting for the fifth Inter-American Specialized Conference on Private International Law) (Montevideo, Instituto Interamericano del Niño, 1994).

[8]*International Children's Rights Monitor*, vol. 10, No. 3 (1993), p. 20.

[9]*Report of the Regional Expert Meeting on Protecting Children's Rights in Intercountry Adoptions and Preventing Trafficking and Sale of Children* (Geneva, Defense for Children International, 1992).

[10]International Labour Organization, *Children in Bondage: a Call for Action* (Geneva, International Labour Organization, 1992).

[11]*International Children's Rights Monitor*, vol. 10, No. 3 (1993).

[12]See *Children Worldwide*, vol. 19, No. 2 (1992), p. 40.

[13]See R. O'Grady, ed., *Children in Prostitution: Victims of Tourism in Asia* (Bangkok), End Child Prostitution in Asian Tourism, 1992).

[14]Giovanna Mérola, "Explotación sexual es violación de derechos humanas" (Sexual exploitation is a violation of human rights), *Mujer/FEMPRESS*, No. 151, Mayo 1994.

[15]*International Children's Rights Monitor*, vol. 7, 1993.

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REVIEW OF PRIORITY THEMES

Activities of United Nations bodies and institutions with regard to the issue of violence against women and children

Report of the Secretary-General

Summary

The present report has been prepared in accordance with Commission on Crime Prevention and Criminal Justice resolution 3/1 on violence against women and children. It presents the contributions received from the relevant intergovernmental organizations, United Nations specialized agencies and other bodies, the United Nations Interregional Crime and Justice Research Institute and associated and affiliated institutes. It highlights past, present and envisaged activities in respect of violence against women and children.

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INTRODUCTION

1. The Commission on Crime Prevention and Criminal Justice, at its third session, adopted its resolution 3/1 on violence against women and children, in which it requested the Secretary-General to report to the Commission at its fourth session on the activities of United Nations bodies and institutions with regard to the issue of violence against women and children.

2. Further to that mandate, the Secretariat requested all relevant intergovernmental organizations, United Nations bodies and specialized agencies to provide information on their past, present and envisaged activities concerning violence against women and children. The present report reflects, and is based upon, the replies received by the Secretariat from the various bodies concerned.

3. In its resolution 3/1, the Commission also requested the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider violence against women and violence against children as separate questions under topic 4 and in the context of the workshop on the prevention of violent crime and to propose recommendations to the Commission in respect of legislation, procedures, policies, practices, and technical cooperation and assistance.

I. ACTIVITIES OF INTERGOVERNMENTAL ORGANIZATIONS

A. Commonwealth Secretariat

4. The Commonwealth Secretariat has supported initiatives undertaken by the United Nations to eliminate violence against women. In July 1994, the Commonwealth Secretary-General wrote to the Secretary General of the United Nations to express Ministers' support for the Vienna Declaration and Programme of Action adopted by the United Nations World Conference on Human Rights held at Vienna from 14 to 25 June 1993 (A/CONF.157/23).

5. One of the key objectives of the programme of the Commonwealth Secretariat on equality for women is to promote an understanding of women's rights as human rights and an integral part of the fundamental values of the Commonwealth. In that context the Commonwealth Secretariat encourages all Commonwealth Governments to ratify the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Declaration on the Elimination of Violence against Women, and to implement the Vienna Declaration and Programme of Action.

6. Facilitating international collaboration on gender issues is also central to the programme of the Commonwealth Secretariat on equality for women.

7. The initiatives taken by the Commonwealth Secretariat in relation to violence against women are outlined below.

1. Meetings

8. In 1985, the First Meeting of Commonwealth Ministers for Women's Affairs mandated the Women and Development Programme of the Commonwealth Secretariat to hold an Expert Group Meeting on violence against women. Both the ministerial meeting and the Expert Group Meeting set the framework for Commonwealth action in confronting violence.

2. Manuals

9. The Commonwealth Secretariat has thus far published the following *Manuals*:

(a) *Confronting Violence - A Manual for Commonwealth Action* (Second edition, June 1992),* produced from the conclusions of the above-mentioned Expert Group Meeting to guide the action of women's groups, lawyers, health and media professionals, the police and the judiciary;

(b) *Violence against Women - Curriculum Material for Legal Studies* (1989), published as a result of the 1987 Expert Group Meeting mentioned below (see paragraph 10), includes two seminar packages on domestic violence and sexual assault, and is adaptable for teaching about violence against women in law and related subjects in Commonwealth jurisdictions;

(c) *Convention on the Elimination of All Forms of Discrimination against Women, the Reporting Process - A Manual for Commonwealth Jurisdictions* (1988), produced to assist Governments and women's bureaux in implementing, monitoring and reporting on the Convention;

(d) *A Commonwealth Guide to Eliminating Men's Violence against Women* (1995), which describes the historical context for work relating to the elimination of violence against women in Commonwealth countries, gives examples of the violence experienced by women, and identifies some of the methods which can be used for combating such violence;

(e) *Manual on Guidelines for Police Training on Violence against Women and Child Sexual Abuse* (1988), produced from the conclusions of the Workshop for Police Training on Violence against Women mentioned below (see paragraph 11).

3. Training

10. Recognizing personnel training as central to any strategy to confront violence against women, the Commonwealth Secretariat, during 1986, conducted training sessions for police in Malaysia and Singapore. In May 1987, it convened an Expert Group Meeting, in London, to prepare training material for Commonwealth law students.

11. In 1988, a Pan-Commonwealth Workshop for Police Training on Violence against Women was organized by the Women and Development Programme and attended by senior police officers from sixteen member States. They endorsed a variety of measures for responding to victims of violence, including the provision of centres for victims of rape.

12. Violence against women is one of the key themes being considered by senior judges from countries within each of the Commonwealth regions. The first judicial colloquium for the Africa region took place in Zimbabwe in August 1994. It resulted in a series of recommendations relating to the domestic application of international laws on gender issues, including several which specifically relate to preventing, investigating and punishing acts of violence against women. Further judicial colloquiums

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*The *Manual* contains four sections on: domestic violence and sexual assault; sexual harassment and sexual abuse of children; violence related to customs and tradition; and the media and violence against women. Each section provides definitions of the various types of violence, examines the legal approaches currently operating in the Commonwealth, and explores positive mechanisms which provide support for victims or which can be used to bring about changes in public attitudes.

are scheduled to take place during 1995-1997 for Commonwealth countries in the Asia, Caribbean and South Pacific regions.

13. The Commonwealth Secretariat organized regional training workshops in Africa and the Caribbean to introduce Ministers responsible for Women's Affairs and senior officials from Ministries of Foreign Affairs to the reporting processes for the Convention on the Elimination of All Forms of Discrimination against Women.

4. Clearing-house activities

14. A database of information will be set up in order to provide information to groups working to prevent violence against women in Commonwealth countries, facilitate the exchange of information between countries and regions, and promote examples of good practice.

B. Council of Europe

15. Violence against women and children has been on the agenda of the European Committee on Crime Problems of the Council of Europe for many years. In respect of criminal law, a number of recommendations have been adopted by the Council so as to provide guidance to criminal justice agencies on matters such as the prevention of violence, the proper treatment of offenders and assistance to victims.

16. Particularly worthy of note are the following recommendations: recommendation R (85) 4 on violence in the family; recommendation R (85) 11 on the position of the victim in the framework of criminal law and procedure; recommendation R (87) 21 on assistance to victims and the prevention of victimization; and recommendation R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults.

C. International Criminal Police Organization

17. The seriousness of the problem is fully appreciated by the International Criminal Police Organization (ICPO/Interpol). Its action in combating violence against women and children is carried out mainly through a biannual working group,* the action of which is recognized by various United Nations bodies with which it closely collaborates.** In future, ICPO/Interpol intends to concentrate on training police officers in combating crime against children.

II. ACTIVITIES OF UNITED NATIONS SPECIALIZED AGENCIES AND OTHER UNITED NATIONS BODIES

A. United Nations Educational, Scientific and Cultural Organization

18. The United Nations Educational, Scientific and Cultural Organization (UNESCO) is continuing its efforts through its programme activities in cooperation with its partners to eradicate violence against

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*Information on the past and present activities of the working group is contained in the minutes of the meetings, and is available upon request.

**Most of the information held in the files of ICPO/Interpol relating to crimes against women and children has been obtained from the United Nations.

women and children and to develop awareness and concern regarding this issue. In this regard the following activities have been undertaken:

1. Violence against women

(a) Assaults on dignity

19. Growing world poverty has meant that problems involving assaults on the dignity of women are becoming ever more acute. UNESCO has broadened the scope of its action during the current biennium (1994-1995) by laying the foundations for an international network to combat violence against women and by making provision for the elaboration of new international standards. UNESCO provided support for an exhibition organized by the city of Lille on prostitution. The fact that many young persons questioned on that occasion no longer regard prostitution as inevitable, and believe that it may well be made to disappear, suggests that normative action may be developed.

20. A working group which met in April 1991 at Penn State University, Pennsylvania, United States of America, undertook the task of analysing the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by General Assembly resolution 317 (IV) of 2 December 1949, and proposing means of strengthening its application and monitoring. Following a study of the causes of prostitution, the experts expressed the view that new international standards should be adopted on this question.* In response to a request made by the Working Group on Contemporary Forms of Slavery set up by the Commission on Human Rights, another working group met in order to elaborate new international norms.**

21. On the occasion of International Women's Day in 1993, an International Conference on the Sex Trade and Human Rights was held at Brussels on 6 March 1993. Organized by UNESCO, the *Communauté française de Belgique*, the International Federation of Human Rights and the International Council of Women, it attracted considerable attention. In order to contend with a traffic in persons which has reached unprecedented proportions and is conducted by cruel methods, participants urged that the international legal instruments designed to combat it be strengthened. A campaign to collect signatures was launched in order to support the proposal for a new convention against the exploitation of human beings which might be presented at the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing from 4 to 15 September 1995.

(b) Violence against women in time of armed conflict

22. A working group met at UNESCO headquarters in June 1994 to discuss the use of rape as a tool of war, its causes and consequences, and to elaborate a rehabilitation plan for the afflicted Bosnian women victims. This plan, initially intended for women and children who are victims of violence, will probably be extended or reoriented towards young female victims. UNESCO is cooperating in this respect with the Commission of Experts established pursuant to Security Council resolution 780 (1992) to examine information relating to grave breaches of the Geneva Conventions and other instruments of

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*A report, entitled "The Penn State Report", published in 1991 by UNESCO and the Coalition Against Trafficking in Women, was widely disseminated, and led in particular to an open debate within the Council of Europe.

**The findings of the working group were presented at United Nations Headquarters in a lecture delivered to the women's group concerned with the activities of non-governmental organizations, a group which has shown great interest in UNESCO activities.

international humanitarian law committed in the territory of the former Yugoslavia and in particular in Bosnia and Herzegovina.

23. Within the framework of resolution 11.1 adopted by the UNESCO General Conference at its twenty-seventh session, a study on normative instruments relating to gender equality was undertaken with a view to analysing means to better promote knowledge and understanding of these instruments by women and women's organizations, and to the elaboration of new norms designed to enhance UNESCO activities relating to violence against women.

(c) Education programmes to prevent violence against women

24. Issues concerning the rights of women, their exposure to violence, the means to prevent violence against women and the resistance to such violence have been incorporated into UNESCO literacy and adult education programmes, as well as its programmes on education for peace, human rights and democracy.

25. Gender stereotyping (sexism) is one of the issues of concern discussed within the framework of the UNESCO Associated Schools Project, which endeavours to teach tolerance, democracy, respect for human rights and international understanding.*

26. In accordance with resolution 5.7 of the UNESCO General Conference at its twenty-seventh session, the forty-fourth session of the International Conference on Education, held at Geneva in October 1994, considered the Draft Integrated Framework of Action on Education for Peace, Human Rights and Democracy, and decided to submit it for approval to the General Conference at its twenty-eighth session in 1995.

27. The Integrated Framework of Action offers a contemporary view of the problems relating to education for peace, human rights and democracy. It sets out objectives for such education, action strategies, policies and lines of action at the level of national and international institutions. It foresees specific action on behalf of vulnerable groups, giving particular attention to children at risk and to females subjected to sexual abuse and other forms of violence. It also foresees the organization of specialized forums and workshops for educators, family members and mass-media professionals.

2. Violence against children

28. UNESCO activities in this area which directly or indirectly contribute to the prevention of violence against children are carried out under the programmes described below.

(a) Convention on the Rights of the Child

29. Within the United Nations system, and in close cooperation with the United Nations Children's Fund (UNICEF), UNESCO participates actively in the promotion of the Convention on the Rights of the Child, through the project entitled "The young child and the family environment", initiated in 1989.

30. UNESCO also endeavours to associate its programmes with the Interdepartmental Project on Elimination of Child Labour run by the International Labour Organization (ILO), in which UNESCO

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*See the UNESCO publication *Tolerance: The Threshold of Peace* (Paris, 1994), the preliminary version of a more comprehensive guide to be published during the United Nations Year for Tolerance, 1995.

expertise in vocational and technical education could make a difference to many children. ILO also supported the publication of a special issue of the *UNESCO Courier* on the subject of "children in danger", the *Co-ordinators' Notebook*, which frequently publishes material relevant to the Convention, for example, *Protecting Children from the Scourge of War*, and commissions original material on the Convention, especially booklets and cartoon strips prepared for or by young children.

(b) Street and working children

31. In close cooperation with UNICEF and other partners, a number of programme activities and projects are being implemented in favour of street children who are often exposed to various forms of abuse and violence. In order to combat violence often inflicted on street children in many countries, violence which makes them refractory to education, regional seminars with multiplier effect have been or are being organized by UNESCO to train police officers in the human and social sciences (for example, at Rio de Janeiro, Brazil, in 1993, and at Bangalore, India, and Harare in 1994/1995). Analyses of the educational situation of street children, with a view to preparing the ground for action by UNESCO to help such children as well as children in a situation of armed conflict, have been planned for the 1994/1995 biennium for several countries and territories.

32. The phenomenon of children being stolen, kidnapped, sold or given away by their natural parents (for example, under pressure of poverty), and then used as forced labour, is spreading in many countries, despite the efforts by the United Nations system to eliminate such practices by means of legal instruments. UNESCO is therefore promoting a new approach to free these children and give them access to education and to the benefits of childhood, in cooperation with concerned institutions and individuals. On this basis, an experimental inter-agency project (involving ILO, UNESCO and UNICEF) has been launched in India, and will be introduced in other countries.*

B. World Health Organization

33. The World Health Organization (WHO) Regional Office for the Americas has been actively engaged in projects on the prevention of violence. A programme of action on this subject has been formulated. An Interamerican Conference on Society, Violence and Health was organized by the WHO Regional Office for the Americas at Washington on 16 and 17 November 1994. The objectives of the conference included the following:

(a) Issuing a declaration calling upon the Heads of the State in the Americas to confront violence and to mobilize human and financial resources for its prevention and control;

(b) Building a consensus among national and international development institutions on the most effective means to support democratic values in societies without violence;

(c) Launching a grass-roots regional movement to build non-violent communities;

(d) Encouraging the Governments of the western hemisphere to commit individually and through international organizations sufficient financial resources to reverse the trend of increasing violence.

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*See the UNESCO information leaflet entitled *Street and Working Children, Strategy for 1994-1995* (Paris, 1994).

C. International Labour Organization

34. Since its founding in 1919, ILO has established a series of standards to eliminate child labour, the most recent of which, the Minimum Age Convention (No. 138) and the Minimum Age Recommendation (No. 146) of 1973, deal with this question in depth. All countries that have ratified the Convention pledge to ensure that the minimum age for employment shall not be less than the age of completion of compulsory schooling.

35. To help Governments design and implement policies and programmes to combat child labour and to protect working children, as well as to increase awareness in Member States of the dimensions and consequences of child labour and of national obligations under relevant international labour standards, the International Programme for the Elimination of the Exploitation of Child Labour was launched in 1992. The Programme mobilizes the forces best placed to fight against child labour. Violence resulting from the labour conditions of children is particularly evident in the cases of those in bonded or domestic service or in prostitution. Because of their extreme vulnerability, bonded and female child workers have been distinguished as priority target groups of activities of the Programme, together with children working on hazardous tasks.

36. ILO has also addressed the problems of sexual harassment at work, a form of violence which affects a greater number of women than men. In a comparative study of legal approaches to sexual harassment at work in 23 developed countries, published in the ILO *Conditions of Work Digest*, volume 11, November 1992, ILO reviewed legislation to identify laws prohibiting sexual harassment and to ascertain how existing legal provisions contained in equal opportunity, labour, tort and criminal statutes can be used to help victims. The study includes examples of enterprise policies to prohibit sexual harassment and of practices to investigate complaints and discipline offenders. The ILO also organized a regional seminar on the Prevention of Sexual Harassment at Work, which took place at Manila in 1993. Guidelines for the prevention of sexual harassment are being developed as part of the ILO work programme for the biennium 1994-1995.

D. United Nations Children's Fund

37. UNICEF has repeatedly stressed its concern regarding the effect of violence on women and on children. The brutality and psychological trauma caused by violence and abuse have devastating long-term effects, particularly when violent acts are perpetuated within the family.

38. Priority was accorded to those issues in April 1990, when the Executive Board of UNICEF endorsed the focus given to girls in all programmes and strategies in the 1990s, with a view to eliminating gender disparities. UNICEF work in addressing gender inequities, particularly in the access to health care, education and nutrition, are extremely important in furthering self-awareness of females, as well as the economic, social and political position of women in society.

39. Further, in May 1994, the Executive Board of UNICEF, adopted a resolution in which it endorsed the conclusions of the policy review on gender equality and empowerment of girls and women and outlined a number of strategies to promote gender-sensitive programmes in UNICEF activities. These include the following:

(a) Development of gender-sensitive indicators in each sectoral area of development and setting of gender-specific goals in the national programmes of action;

(b) Strengthening the integration of gender concerns in country programmes by eliminating the disparities which exist at each stage of the life cycle of girls and women;

(c) Promotion of ratification and implementation of the Convention on the Elimination of All Forms of Discrimination against Women, together with the Convention on the Rights of the Child;

(d) Support for specific actions and strategies which promote gender equality within the family, including the sharing of parental responsibilities.

40. The 1992 *State of the World's Children* report also outlined UNICEF's concern for the predicament of girls in many societies. The situation was referred to as "apartheid of gender", discriminatory behaviour against girls, ranging from the denial of education to rape.

41. The Convention on the Rights of the Child, expressly calling for the protection of children from abuse and exploitation, provides a framework for the activities of UNICEF in these areas. UNICEF is attempting to educate members of the community, such as religious leaders, health workers, teachers and women's groups, on their role in protecting children's rights. UNICEF country offices are working closely with non-governmental organizations and Governments to ensure effective implementation of those articles designed to protect children from all forms of abuse.

42. The most recent example of such cooperation was a symposium for non-governmental organizations on creating violence-free families, conducted by UNICEF in collaboration with the United Nations Development Fund for Women and the Bahá'í International Community.

43. Given the evidence which suggests that children growing up in violent families, may themselves become violent, UNICEF has initiated studies in Latin America, Bangladesh and Namibia.

44. As far as incest is concerned, UNICEF, together with relevant partners, is attempting to ensure that emphasis is placed on primary prevention strategies and access to reliable child-care facilities. UNICEF is concerned about the exploitative sexual practices which are now a feature of economic life in several countries. UNICEF, in collaboration with the non-governmental organizations, End Child Prostitution in Asian Tourism, and the Swedish Government is organizing the First World Congress on Sexual Exploitation, Trafficking and Pornography of Children, planned for September 1996.

E. Office of the United Nations High Commissioner for Refugees

45. Women and children constitute the majority of the approximately 23 million refugees and other persons of concern to the Office of the United Nations High Commissioner for Refugees (UNHCR). The mandate of UNHCR is to provide international protection to refugees and to seek durable solutions for them. Within its mandate, UNHCR has taken a particular interest in the plight of women and children who need specific protection. Violence, in its various forms, poses significant problems for the protection of women and children, during flight and in the country of asylum.

46. UNHCR has been and is currently involved in a variety of activities concerning violence against women and children.

47. During the past decade, the Executive Committee of the High Commissioner's Programme has adopted a number of specific conclusions on the protection of refugee women and children. The conclusions note, in particular, the problems refugee women and girls face in the area of physical security and sexual exploitation, and call for preventive measures to enhance their physical security. In 1990,

UNHCR introduced its policy on refugee women, and in July 1991 it issued Guidelines on Protection of Refugee Women. The issue of physical security is examined in paragraphs 30 to 52 of the Guidelines.

48. More recently, and prompted by the distressing situation of women in several regions, UNHCR has placed special emphasis on the problem of sexual violence in the context of refugees. In that connection, UNHCR has taken a large number of initiatives to improve the observance of the human rights of refugees, in particular of refugee women and girls. In May 1993, UNHCR presented to the Executive Committee's Sub-Committee of the Whole on the International Protection of Refugees a note on certain aspects of sexual violence against refugee women (A/AC.96/822). In the Note, the phenomenon of sexual abuse of refugee women and girls is reviewed in the light of UNHCR experience, the implications for preventive and remedial action and for durable solutions are examined, and specific measures which States and UNHCR can adopt to combat this persistent problem are suggested. In response, at its forty-fourth session, the Executive Committee adopted conclusion 72 (XLIV) on personal security of refugees, and conclusion 73 (XLIV) on refugee protection and sexual violence. A paper on the personal security of refugees (EC/1993/SCP/CRP.3) was also presented.

49. UNHCR is also developing field guidelines on the prevention of and response to sexual violence against refugees.

50. In relation to refugee children, UNHCR has taken several steps with a view to preventing their exposure to violence. Notably, in August 1988, UNHCR issued a set of guidelines on refugee children which contain the policies guiding UNHCR actions in these areas and indicate concrete steps that can be taken to ensure that the needs of refugee children are met. These guidelines have been recently revised, including incorporation of the principles expounded in the Convention on the Rights of the Child, a chapter being devoted to personal liberty and security.

51. In 1993, UNHCR introduced its policy on refugee children which highlights the right of the child to personal security. It also outlines the objectives of the work of UNHCR, which include the protection of refugee children at risk from detention, armed conflict, military recruitment, sexual assault or abuse, prostitution, torture, hazardous working conditions or any other form of violence, abuse or neglect.

52. In relation to operational activities, UNHCR deploys Protection Officers to all field locations who, along with other UNHCR personnel, are responsible for the implementation of the policies and guidelines on refugee women and children. UNHCR makes a special effort to ensure the deployment of female Protection Officers in areas where female refugees experience particularly grave protection problems.

53. In relation to resettlement, women victims of violence can be assisted through two kinds of special programmes, those created to assist the disabled or persons medically at risk, and those specifically created for women at risk. Such programmes are offered by Australia, Canada and New Zealand, and more recently special resettlement assistance initiated by the United States is being successfully implemented. European countries have also extensively assisted through resettlement of women victims of violence on both a regular and an emergency basis.*

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*In this context, see the special edition, on resettlement, of the UNHCR publication *Refugees Magazine*, which provides further information on resettlement of vulnerable groups.

54. European consultations on the care and rehabilitation of victims of trauma and violence took place at Utrecht, Netherlands, in June 1993, co-funded by UNHCR and the Government of the Netherlands and in close collaboration with WHO and the International Organization for Migration. Professionals with substantial expertise in the treatment of victims of trauma and violence participated in this conference. As a result, recommendations on policy and implementation were made, and draft guidelines on evaluation and care of victims of trauma and violence were produced. They have been translated into six languages, and since December 1993 are being tested on a pilot basis in selected field locations by UNHCR and others. They will be finalized in December 1994 for worldwide implementation.

55. Since 1989, training in people-oriented planning has been introduced in UNHCR. The framework of this training involves analysing the refugee profile and the context giving rise to the displacement. This includes a comparative analysis of the situation regarding the division of labour and the control and availability of resources in the country of asylum and the situation that existed in the country of origin prior to flight. Through the use of case-studies, special attention is focused on the role and needs of women, promoting gender-awareness in the provision of protection and assistance to refugees, and on specific needs in relation to children. Specific emphasis is placed on issues in relation to the physical security of refugee women and children.*

56. UNHCR launched a pilot project entitled "Women victims of violence" in 1993. The project focuses on preventive measures, and enhances the provision of assistance to female refugees who have been subjected to violence. UNHCR intends to undertake a thorough evaluation of the project, and then incorporate its positive aspects into UNHCR operational activities in other countries.

57. UNHCR cooperates closely with the Centre for Human Rights, and recently forwarded information for the preparation of the report by the Commission on Human Rights Special Rapporteur on the elimination of violence against women to the fifty-first session of the Commission. UNHCR intends to collaborate closely with the Special Rapporteur in the fulfilment of her mandate. In addition, in October 1994 UNHCR attended the first Inter-Agency Working Group convened at Geneva by the expert appointed to conduct a study on the impact of armed conflict on children, pursuant to General Assembly resolution 48/157 of 20 December 1993. UNHCR has pledged its full support to assist the expert and to participate in the study.

58. UNHCR also maintains close collaboration with the Committee on the Rights of the Child on matters affecting children under UNHCR protection by contributing views and information to the Committee's working group that conducts a preliminary examination of each report submitted by States. Problems relating to violence faced by refugee children can thus be brought to the attention of the Committee for its discussions with representatives of States parties to the Convention on the Rights of the Child. UNHCR strongly supports the initiative taken by the Committee on the Rights of the Child for an optional protocol to the Convention on involvement of children in armed conflict. In this regard, in September 1994 UNHCR made comments on the draft protocol, pursuant to paragraph 16 of Commission on Human Rights resolution 1994/91.

59. In the context of the Fourth World Conference on Women, UNHCR has been taking the necessary steps to ensure that the issue of violence related to the specific situation of refugee and displaced women

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*To date over 800 staff from UNHCR and non-governmental organizations, government officials and Executive Committee members have received this training.

is appropriately addressed at all levels, and that recommendations for corresponding remedial action are adopted.

60. UNHCR appointed a Senior Coordinator for Refugee Women in 1989 and a Senior Coordinator for Refugee Children in 1992. A Legal Adviser for Refugee Women and Children was also appointed to the Division of International Protection in 1994.

61. UNHCR is also finalizing a training manual on Human Rights and Refugee Protection to form a basis for protection training activities. Specific chapters are devoted to refugee women and children, including the issue of violence against them.

F. Centre for Human Rights

62. The Commission on Human Rights, by its resolution 1993/46 of 8 March 1993, on integrating the rights of women into the human rights mechanisms of the United Nations, condemned all acts of violence and violations of human rights directed specifically against women, including those in situations of armed conflict, and decided to consider the appointment of a special rapporteur on violence against women at its next session.

63. The Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, contains a section on human rights of women and provisions on violence against women. In part two, paragraph 40, the World Conference also welcomed the decision of the Commission on Human Rights to consider the appointment of a special rapporteur on violence against women at its fiftieth session. At its fiftieth session, the Commission, by its resolution 1994/45 of 4 March 1994, decided to appoint, for a three-year period, a special rapporteur on violence against women, its causes and consequences. Pursuant to this resolution and its endorsement by the Economic and Social Council in its decision 1994/254 of 22 July 1994, the Special Rapporteur was appointed.

64. The Special Rapporteur is mandated to research, study and investigate all aspects of violence against women, whether those acts are perpetrated by the State or by private persons. The mandate of the Special Rapporteur is broadly defined in Commission resolution 1994/45. In that resolution, the Commission invites the Special Rapporteur to:

(a) Seek and receive information on violence against women, its causes and its consequences from Governments, treaty bodies, specialized agencies, other special rapporteurs responsible for various human rights questions and intergovernmental and non-governmental organizations, including women's organizations, and to respond effectively to such information;

(b) Recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;

(c) Work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with the treaty bodies, taking into account the Commission's request that they regularly and systematically include in their reports available information on human rights violations affecting women, and cooperate closely with the Commission on the Status of Women in the discharge of its functions.

65. The Special Rapporteur has prepared a preliminary report, submitted to the Commission on Human Rights at its fifty-first session, focusing on the relevant international legal standards and human rights instruments applicable to violence against women. The second report of the Special Rapporteur, to be submitted in 1996, will focus on the issue of violence in the community and by the State, and the third report, in 1997, will concentrate on issues relating to violence in the family.

66. The Special Rapporteur will present reports to the Committee on the Elimination of Discrimination against Women, to the Commission on the Status of Women, as well as to the Fourth World Conference on Women, in the context of integrating the human rights of women into the mainstream of United Nations activities in the field of human rights.

67. The Centre for Human Rights, as a follow-up to the World Conference on Human Rights, has established a focal point for human rights of women within the Office of the Assistant Secretary-General for Human Rights. The Focal Point is engaged in elaborating a programme of action to integrate the human rights of women into the mainstream of United Nations human rights activities, and is also involved in the gathering of information and documentation for the Special Rapporteur on violence against women, its causes and consequences.

G. Division for the Advancement of Women

68. The Commission on the Status of Women has consistently expressed concern for the need to consider violence against women as a violation of human rights and sanction it according to the gravity of the offence.

69. Various resolutions calling for collaboration in the elimination of violence against women have been adopted. In particular, in article 5 of the Declaration on the Elimination of Violence against Women, proclaimed by the General Assembly in its resolution 48/104 of 20 December 1993, the organs and specialized agencies of the United Nations system are specifically requested, in their respective fields of competence, to contribute to the recognition and realization of the rights set forth in the Declaration.

70. On violence against women, the outputs of the Division for the Advancement of Women include the following:

(a) Documentation for the Fourth World Conference on Women, including information on violence against women, derived from national reports, for the preparation of the report of the Secretary-General on the review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000;

(b) Preparation of a platform for action on the themes of equality, development and peace;

(c) A 1991 report prepared for the General Assembly on violence against migrant women workers;

(d) The Expert Group Meeting on Measures to Eradicate Violence against Women in the Family and Society, held at Vienna from 13 to 17 September 1993;

(e) The Expert Group Meeting on Violence in the Family, with Special Emphasis on its Effects on Women, organized and conducted jointly with the Crime Prevention and Criminal Justice Branch of

the former Centre for Social Development and Humanitarian Affairs, United Nations Office at Vienna, and held at Vienna from 8 to 12 December 1986;

(f) The United Nations *Manual on Violence against Women in the Family* (1989).[1]

III. ACTIVITIES OF THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME NETWORK

71. The present section contains a summary of relevant activities and initiatives thus far undertaken by the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the following affiliated regional institutes and associated institutes and centres that comprise the United Nations crime prevention and criminal justice programme network: Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders; European Institute for Crime Prevention and Control, affiliated with the United Nations; Latin American Institute for the Prevention of Crime and the Treatment of Offenders; African Institute for the Prevention of Crime and the Treatment of Offenders; Arab Security Studies and Training Centre; Australian Institute of Criminology; and International Centre for Criminal Law Reform and Criminal Justice Policy.

A. United Nations Interregional Crime and Justice Research Institute

72. Two reports have been prepared on the topic. The first one is entitled "Violence in the family: an international bibliography with literature review". The executive summary of this report will be presented in the UNICRI Issues and Reports series, number 4 (in English and French), which also contains a diskette with the bibliography and full version of the report.

73. The second report, entitled "Women victims of crime in the developing world", will appear as number 5 of the Issues and Reports series and will present the results of the International Crime (Victim) Survey conducted in 1992.

74. A comparative study on child abuse in the family is also being prepared. The aim of this project is to illustrate the problem of child abuse in various European countries (Belgium, Denmark, England and Wales, France, Italy and Switzerland) and the official and non-official response to it.

B. Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders

75. The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders has not selected the issues of violence against women and children as a theme for its training courses or research projects, but it intends to do so in the near future. It will also initiate the collection of data and other information which reveal the actual situation of violence against women in each country, and give assistance to each country which makes efforts to collect such data.

1. Training

76. In the training courses and research projects on juvenile delinquency, the Institute and participants have usually touched upon both physical and psychological violence against children, seeking the causes and motivation of delinquency and effective countermeasures to prevent delinquency. Recently, along with urbanization, violence against children has become a serious problem in the world, so that the Institute took up this problem in the following course and research project.

77. In the 95th International Training Course (held from 13 September to 3 December 1993), the main theme of which was "Effective countermeasures against crimes related to urbanization and industrialization: urban crime, juvenile delinquency and environmental crime", it was acknowledged that juveniles are most vulnerable to the worsened urban environments, and family and community ties which had played important roles in the sound development of juveniles have been loosening. Special attention was paid to the actual situation of street children and abused children, including children who are bought and sold or prostituted, and to countermeasures in each country.

2. Research

78. Relevant research work on Juvenile Welfare in India is being conducted jointly with the Research and Training Institute of the Ministry of Justice of Japan and the National Institute of Social Defence in India, and is scheduled to last for three years, starting in 1993. Policies to improve the serious situation of street children and child labourers are among the main subjects of this research. The Institute's research on the Japanese social welfare system also is of relevance.

C. European Institute for Crime Prevention and Control, affiliated with the United Nations

1. Workshops

79. A Central and Eastern European Workshop on Domestic Violence was organized by the Institute and the Ministry of Justice of Hungary at Budapest in April 1994. Representatives from Albania, Croatia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russian Federation, Slovakia, Slovenia and Ukraine gathered to discuss use of the *Resource Manual on Strategies for Confronting Domestic Violence*. The workshop revealed that, as in most countries of the world, the predominant victims of such violence are women, although there is a high representation of child victims of domestic abuse. Alcohol abuse, economic difficulties and overcrowded living conditions appear to be correlated with violence against women in the family. Such violence appears to have been part of traditional gender relations in some countries, and has been exacerbated by the change in family roles in the last twenty years.

80. A number of recommendations for central and eastern Europe on legislation, professional training, the provision of services, research, technical assistance and cooperation and education was formulated during the workshop. Police, prosecutors and judges should be made aware of the dynamics of domestic violence, and the police should be given specific and intensive training in crisis intervention and in the collection of evidence in domestic disputes. Countries should be made aware of the importance of services, including telephone hotlines, crisis centres and refuges for victims of domestic violence. Education in non-violent education, public education campaigns, and all forms of media should raise awareness of the issue of domestic violence and provide information to victims and perpetrators of options available and services.

81. The Institute plans to organize a pilot course for central and eastern European countries to be held in Slovenia in 1995.

2. Sponsorship

82. The Institute financed the English version of the publication *Resource Manual on Strategies for Confronting Domestic Violence*, in cooperation with the Departments of Justice and of Social Welfare and Health of Canada and the Crime Prevention and Criminal Justice Branch. The Institute is further

exploring possibilities, together with authorities of the Russian Federation, for the publication of a Russian version of the *Manual*.

D. Latin American Institute for the Prevention of Crime and the Treatment of Offenders

83. In 1991, the Latin American Institute for the Prevention of Crime and the Treatment of Offenders started to implement a training programme on domestic violence, aimed at technical personnel of the correctional, judicial and police systems of Costa Rica, and at key personnel from these institutions in the remaining countries of Central America. The programme has been developed in stages lasting one year each.

1. First stage

84. The first stage (1991) included the development of training activities on the sex-gender theory; violence against women, and children; an analysis of the patriarchal system; and the theoretical framework of the programme.

2. Second stage

85. During the second stage (1992) the training emphasized specific subjects such as physically battered women, rape, incest, the dynamics of physical and sexual offenders, sequels of violence on the victims and non-sexist research methods.

3. Third stage

86. The third stage (1993-1994) focused on subjects such as trauma of the victims of violence and their treatment in the psychosocial dynamics of physical and sexual offenders and in the prevention of domestic violence. An assistanceship programme was additionally developed based on supervised practice, for counsellors of groups for the rehabilitation of physical and sexual offenders.

87. For the past two years a process of multiplication of experience has been evolving under the leadership of trained technical personnel of the Ministry of Justice.

88. As a result of the activities of the programme, more than 800 professionals from the Ministry of Justice, the Ministry of the Interior, and the Supreme Court of Costa Rica, and a small number of key personnel from the same institutions in the remaining countries of Central America were trained to handle domestic violence, the treatment of offenders in their rehabilitation processes, and the treatment of victims in their emotional, legal and support needs. Supporting educational materials to be used in the courses (manuals, monographs etc.) have also been produced.

4. Fourth stage

89. During the fourth stage (1995) the training activities are aimed at technical personnel of the Women and Family Bureau and the Ministry of the Interior of Costa Rica, which is in charge of the homes for battered women.

E. African Institute for the Prevention of Crime and the Treatment of Offenders

90. The African Institute for the Prevention of Crime and the Treatment of Offenders has expressed its commitment to ensuring that, in all its programme activities, violence against women and children will receive due attention. The Institute has undertaken a number of relevant activities, as follows:

1. Research

91. A 1993 pilot survey of the African Crime, Victimization and Criminal Justice Administration, conducted at Bujumbura and Kampala, revealing the magnitude of victimization of women and children in the region. The analysis of the data of the pilot survey in relation to violence against women, particularly with respect to rape cases, had indicated an increase in incidence. Women victims of rape offences were noted to be gradually coming forward with information about rape occurrences, due in part to the important role played by women activist organizations in sensitizing women about their rights. The Institute continued to establish contacts with these organizations so as to encourage them to continue such valuable work. It considers such an approach to be conducive to crime prevention efforts aimed at reducing female victimization and neutralizing some of the cultural prejudices used to suppress and victimize women.

92. A pilot action-oriented study on the resettlement of street children at Kampala has been undertaken. It addresses crime prevention through the resettlement of street children. The results of this research would provide a basis for studies in other countries with similar problems in the region. The preliminary findings are expected to be published shortly.

2. Training

93. Training activities relating to violent crimes against women and children are mainly intended to raise awareness about the need to take appropriate forms of action in the region. These activities are outlined below.

94. A training seminar on the prevention, control and correction of juvenile delinquency in Africa was held at Kampala in September 1991. It was attended by participants from all African subregions and covered child victimization and exploitation. It was highlighted how juvenile delinquency in many African countries was a reaction and symptom of the harsh, brutalizing environment.

95. A training seminar on victims of crime and prevention of victimization in Africa was held at Kampala in June 1992. It stressed the vulnerability of women and children as victims of crime due to problems caused by social, economic and cultural factors in the African social situation.

96. It was emphasized that, owing to certain persisting cultural practices, including the fear of putting their lives in danger, a large number of women and children victims of crime do not report to the authorities. It was further recommended that gender-based violence and all forms of sexual harassment and child exploitation, including those resulting from cultural prejudices, be eliminated. In addition, it was recommended that effective machinery of reporting such cases be put in place in every African country as a way of preventing and controlling such crime.

97. A training workshop on reform of penal laws and procedures in Africa was held at Kampala in March 1993. It called upon African Governments to adopt and enforce the application of the United Nations international juvenile justice instruments, the Beijing Rules, the Riyadh Guidelines and Rules for the Protection of Juveniles Deprived of Their Liberty. The African Institute was called upon to draft a model penal code that will de-emphasize violence and brutality against women, children and the minority groups.

98. A workshop on training needs and future training requirements of African countries for heads of institutions of crime prevention and criminal justice was held at Kampala in July 1993 with the particip-

ation of 16 countries. It was recommended that the African Institute develop a model curriculum for training of law enforcement officials to foster the observance of human rights.

99. A training workshop on law, women and crime was held at Kampala in October 1994 to intensify efforts in the area of training, personnel exchange, policy formulation and evaluation concerning the fair treatment of women by the criminal justice system, in line resolution 6 of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders.[2] The objectives of the seminar were as follows: to document information on the incidence, nature, patterns and trends of crime by women and victimization of women in the region; to encourage and promote action-oriented research and comparative studies in the field of law, women, law and crime; and to promote a more effective and rational criminal policy pertaining to female offenders and victims of crime.

F. Arab Security Studies and Training Centre

100. The activities of the Arab Security Studies and Training Centre with regard to violence against women and children include a research project on family violence, which started in 1993. The Centre also published the final report of a research project on the impact of wars and disasters on children in the Arab countries.

G. Australian Institute of Criminology

101. The research, clearing-house, and conference initiatives and activities of the Australian Institute of Criminology in the area of violence against women and children are outlined below.

1. Research

102. On violence against women, the work programme of the Institute has included a number of research projects on sexual assault, domestic violence in the overseas-born community, and family violence and abuse. Some of the research studies are based on elaborate surveys of various segments of the Australian population, and others draw from police, court, and other records and literature. The short- to medium-term programme of the Institute places increased emphasis on developing databases, examining access to justice by women and violence prevention programmes.

103. Besides focused research on the topic, violence against women constitutes a major component in the Institute's work on violence in general and violence prevention. In 1990, the report of the National Committee on Violence made a large number of recommendations with regard to prevention of violence in the Australian community. The level of implementation of these recommendations is continuously monitored. As a first step, the Institute has produced a volume incorporating in it all action taken by Commonwealth, State and Territory governments relevant to the recommendations during the period 1991-1993.

2. Clearing-house

104. In January 1993, the National Committee on Violence Against Women initiated the establishment of a National Clearinghouse on Violence Against Women located at the Institute. The clearing-house is a national reference point for information about violence against women. The aim of the clearing-house is to collect and disseminate relevant information about service provision, programmes, projects and research currently being conducted throughout Australia. The clearing-house also provides information and advice to various groups of clients.

105. On violence against children, in 1992, the National Child Protection Council announced the establishment of the National Clearing-house for Information and Research on the Prevention of Child Abuse and Neglect (now known as the National Child Protection Clearing-house) at the Institute. The objects of the clearing-house are as follows:

(a) To collect information on the primary and secondary prevention of child abuse and neglect, both from Australia and overseas;

(b) To establish a database encompassing this information;

(c) To provide client groups with appropriate advice on primary and secondary prevention programmes;

(d) To compile and disseminate information on a regular basis and in response to the needs of client groups, as well as initiating networking activities with other relevant organizations.

106. In this work the special needs of Aboriginal and Torres Strait Islander children, those from non-English speaking background and developmentally delayed children receive due attention.

3. Conferences

107. Two conferences were organized in the recent years, one entitled "Without Consent: Confronting Adult Sexual violence", held in 1992, and the Second National Conference on Violence, held in 1993.

H. International Centre for Criminal Law Reform and Criminal Justice Policy

108. The International Centre for Criminal Law Reform and Criminal Justice Policy reported two main programmes of work on the topic of violence against women and children.

1. Global technical cooperation and advisory service to prevent and address the problem of domestic violence

109. The practical objective of the proposed programme of work is to create a capacity within interested national and local institutions in various regions of the world to train judges, prosecutors, lawyers, police, victims' counsellors, social workers and other professionals on how to prevent and address domestic violence against women. It is intended to help build and strengthen capacity in institutions abroad to apply an extensive range of international, regional and national expertise to counter this phenomenon. This initiative also includes support to those countries requesting assistance in formulating criminal justice options as part of a comprehensive strategy to prevent and address violence against women in the family. Training curricula and supporting materials for policy makers and practitioners are being developed to be used in technical cooperation projects. Pilot courses are being organized and managed based on a "train-the-trainers" approach to develop the capacity of local institutions to continue to offer training in the future.

2. Impact of organized criminal activities on women and children

110. The impact of organized criminal activities against women and children has not been properly studied yet. Activities such as prostitution, forced and exploitative labour practices, ritual abuse, the trade in human organs and alien-smuggling are among the subjects of a literature database currently

being compiled by the Centre. A bibliography will be published and made available electronically through the Internet.

IV. CONCLUSIONS

111. A multiplicity of initiatives to counter violence against women and children have been taken by concerned intergovernmental organizations and United Nations bodies and institutions. In particular, the Commission on Human Rights, the Commission on the Status of Women and the Commission on Crime Prevention and Criminal Justice have been dealing with these issues within their respective mandates and from their specific perspectives.

112. The crime prevention and criminal justice programme itself has had a long-standing substantive involvement in, and has undertaken considerable work on, violence against both women and children. Various pertinent resolutions have been adopted by the General Assembly, on the recommendations of the United Nations quinquennial congresses, and by the Economic and Social Council, on the recommendation of the former Committee on Crime Prevention and Control.

113. Consideration should be given not only to the results of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in this area, but also to the possible action to be taken by the forthcoming Fourth World Conference on Women to be held at Beijing in September 1995.

114. Furthermore, the Commission on Human Rights has appointed a Special Rapporteur on the sale of children (E/CN.4/1993/67, E/CN.4/1994/84 and A/49/478) and a Special Rapporteur on violence against women, its causes and consequences.* In this context, it should be recalled that the Commission on Crime Prevention and Criminal Justice at its third session, in its resolution 3/1, urged the Secretary-General to publicize the work of the special rapporteurs and to disseminate their findings and conclusions widely, including bringing them to the attention of the Commission to assist in its work in the area of violence against women and children.

115. The Commission may thus wish to consider the most effective ways to maximize cooperation among all international bodies dealing with violence against women and children. Specifically, the Commission could propose strategies to improve coordination, with a view to avoiding duplication of efforts.**

Notes

[1] *Violence against Women in the Family* (United Nations publication, Sales No. E.89.IV.5).

[2] See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

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*Preliminary report submitted by the Special Rapporteur on violence against women, its causes and consequences, in accordance with Commission on Human Rights resolution 1994/95 (E/CN.4/1995/42).

**For example, see document E/CN.6/1995/9 on activities of the United Nations bodies and institutions concerned with crime prevention, submitted to the Commission on the Status of Women at its thirty-ninth session under item 5 on monitoring the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women, endorsed by the General Assembly in its resolution 40/108 of 13 December 1985.